

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 05-cr-80955

v.

Hon. David M. Lawson

DEMETRIUS FLENORY,

Defendant.

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Attorneys for the United States

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Attorney for Demetrius Flenory

NOTICE OF SUPPLEMENTAL AUTHORITY

On May 18, 2020, Defendant Demetrius Flenory (“Flenory”) filed his second motion for compassionate release. Because of the rapidly evolving data and extreme ease of transmission of COVID-19, information regarding the virus change daily. On June 11, 2020, Flenory submitted a notice of supplemental authority explaining that Oregon, where Flenory is currently serving his sentence, had announced the highest one day total of COVID-19 since the outbreak of the pandemic. ECF No. 1669, PageID.10612. Since that filing a week ago, Oregon has now broken its record

one day highs for confirmed cases twice.¹ This is concerning in light of epidemiologist Katie Brasher-Beaudry’s testimony that “if one [FCI Sheridan] staff member is infected and brings the virus into the prison, he or she will infect 2 to 3 more people.” ECF No.1637-4, PageID.9771. The state is open for business.

The governor of Oregon has taken action because of the potential effects of the virus on the state’s prison population. In fact, the Oregon State Penitentiary in Salem, Oregon, which is only 30 miles away from Flenory and FCI Sheridan, has the biggest outbreak of COVID-19 in the state.² Governor Kate Brown directed the Oregon Department of Corrections (“DOC”) to review inmates for possible release. If the DOC determines that an inmate meets the set criteria, they “will have the remainder of their term of incarcerated commuted, pursuant to [Brown’s] authority as governor.”³ The criteria includes: being particularly vulnerable to COVID-19; not

¹ 278 New Cases of Coronavirus in Oregon on Tuesday, a Record High, <https://www.oregonlive.com/coronavirus/2020/06/coronavirus-in-oregon-oregon-again-sets-a-record-with-184-new-cases.html> (“The recent surge in cases in Oregon over the past 10 days, however, is alarming, officials acknowledge. ‘We do continue to feel concerned that Oregon numbers relative to where we were a few weeks ago are not moving in the right direction,’ said Dr. Thomas Jeanne, deputy state epidemiologist”).

² *Oregon Gov. Kate Brown Will Release Inmates to Limit Coronavirus Threat in State Prisons; About 100 Meet Criteria*, <https://www.oregonlive.com/coronavirus/2020/06/gov-kate-brown-will-release-inmates-to-limit-coronavirus-threat.html>

³ *Gov. Kate Brown Directs Oregon Prisons to Perform “Case-by-Case Analysis” of Inmates Whose Sentences Could be Commuted During Pandemic*,

serving a sentence for a crime of the person; have served at least 50% of one's sentence; have a record of good conduct for the last 12 months; have a suitable housing plan; have their out-of-custody health care needs assessed and adequately addressed; and not present an unacceptable safety, security, or compliance risk to the community. *Id.*

There will be a case, if there is not already, in FCI Sheridan, and the virus will choose a person, or persons, at random.

Date: June 18, 2020

Respectfully Submitted,

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<https://www.wweek.com/news/state/2020/06/12/gov-kate-brown-directs-oregon-prisons-to-perform-case-by-case-analysis-of-inmates-whose-sentences-could-be-commuted-during-pandemic/>.

PROOF OF SERVICE

I hereby certify that on June 18, 2020, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to counsel of record.

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